

Message

---

**From:** Presler, Amos [presler.amos@epa.gov]  
**Sent:** 12/10/2018 6:26:22 PM  
**To:** Gardner, Geraldine [Gardner.Geraldine@epa.gov]  
**CC:** Baney, Tony [Baney.Tony@epa.gov]; Miles, James [miles.james@epa.gov]  
**Subject:** FW: Litigation on Region 3 NON - request for OECA assistance  
**Attachments:** Hazelton Creek.pdf; Hazelton Creek NON signed 4-24-18.pdf

Geraldine,

I am assigning you and Tony to this matter. My expectation is that OGC will be working with DOJ and R3 to defend the agency on this petition, but it will require OECA assistance and involvement since it implicates a R3 enforcement action.

Susan Bodine would like to be briefed on this case as well, so we will need you and Tony to be prepared to brief her. Normally, she gets briefed on all OCE and regional enforcement matters on Thursday afternoons, but this week that briefing is set to occur on Wednesday. I'm not sure that OGC will be able to arrange a meeting on this in time for you brief Susan on it, but let me know how this develops. I'll try to attend the meeting that Bethany sets up, if possible.

Thanks,  
Amos

Amos Presler  
(202) 564-1076

This message is CONFIDENTIAL and may contain legally privileged information. If you are not the intended recipient, or if you believe you received this message in error, please delete it and notify the sender.

---

**From:** Miles, James  
**Sent:** Monday, December 10, 2018 9:54 AM  
**To:** Fisher, Bethany <fisher.bethany@epa.gov>  
**Cc:** Baney, Tony <Baney.Tony@epa.gov>; Presler, Amos <presler.amos@epa.gov>  
**Subject:** FW: Litigation on Region 3 NON - request for OECA assistance

Bethany – sounds like an interesting issue. Please invite Tony Baney, Amos Presler and me to the call.

---

**From:** Fisher, Bethany  
**Sent:** Monday, December 10, 2018 9:11 AM  
**To:** Miles, James <miles.james@epa.gov>  
**Subject:** Litigation on Region 3 NON - request for OECA assistance

Good morning James,

On December 5, Hazelton Creek Properties, located in Moosic, PA, filed a petition for review under TSCA section 19(a) in the US Court of Appeals for the Third Circuit challenging a Notice of Noncompliance (NON) issued by EPA Region 3. The NON (which is not included with the petition but is attached separately here) asserts that placement of PCB materials on the site property at levels over 2 ppm, in compliance with a Pennsylvania State permit and Pennsylvania policy, constitutes a violation of the EPA TSCA PCB regulations. The NON says that EPA is "requesting" certain information related to the PCB use violations but also that within 30 days, Hazleton Creek "must respond to the questions presented in this Notice and you must certify by written statement that your facilities will no longer accept PCB-containing materials that contain PCBs at concentrations of 2 ppm or greater." Note that an EPA Region 3 letter sent in reply to a

Hazeltan Creek response to the NON (attached to the petition) says that “no corrective action is necessary...at this time,” but cautions that further receipt by the company of such materials may result in EPA enforcement.

# Attorney Client / Ex. 5

Could you please let me know whom in OECA to work with on this matter? I’m happy to have a call to discuss the background on this issue, if that would be helpful. Thank you!

Bethany Fisher  
EPA Office of General Counsel  
Pesticides and Toxic Substances Law Office  
202-564-2672